

EXHIBIT E

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE COLLEGE ATHLETE NIL
LITIGATION

Case No. 4:20-cv-03919-CW

**DECLARATION OF BARRY T. MEEK IN
SUPPORT OF JOINT ADMINISTRATIVE
OMNIBUS MOTION TO SEAL**

1 I, Barry T. Meek, declare as follows:

2 I am the Deputy University Counsel at the University of Virginia. The University of
3 Virginia is a member of the Atlantic Coast Conference, which is a defendant in this action. I make
4 this Declaration based on my personal knowledge and investigation, and if called as a witness to
5 testify, I could and would testify competently to the following facts.

6 1. This Declaration is being made in support of the Joint Administration Omnibus
7 Motion to Seal (“Motion”), and pursuant to Civil Local Rules 7-11 and 79-5.

8 2. The University of Virginia moves to maintain the confidentiality of certain portions
9 of documents filed under seal by the Parties that reflect Institution’s highly sensitive, non-public,
10 current financial information and contain or reflect confidential personal information of individual
11 student-athletes.

12 3. Specifically, the University of Virginia requests that certain portions of the Expert
13 Report of Catherine Tucker, as described below and as identified in the Proposed Order Regarding
14 Joint Administrative Omnibus Motion to Seal (“Proposed Order”) as entry numbers ECF. No. 251-
15 1, be maintained under seal.

16 4. A party seeking to file a document under seal must “establish that a document, or
17 portions thereof, are sealable.” Civil L.R. 79-5(b). In connection with a dispositive motion, a
18 designating party must demonstrate that “compelling reasons” exist to protect the information from
19 being disclosed. *Kamakana v. City & County of Honolulu*, 447 F. 3d 1172, 1178-79 (9th Cir.
20 2006). Redactions, instead of complete removal, can be used to place “limited and clear” portions
21 of information outside the public record. *Id.* at 1183.

22 5. The University of Virginia can demonstrate that compelling reasons exist to
23 maintain the following narrowly tailored redactions under seal.

24 **CONFIDENTIAL STUDENT INFORMATION**

25 6. The Expert Report of Catherine Tucker contains and reflects confidential personal
26 information of the University of Virginia’s student-athletes. The University of Virginia is required
27 to keep confidential student personal information, and such information may not be disclosed to
28 the public without first obtaining a release from the student or parent, as FERPA (Family

Educational Rights and Privacy Act, 20 U.S.C. 1232g) requires. *See Rosenfeld v. Montgomery Cnty. Pub. Sch.*, 25 F. App'x 123, 132 (4th Cir. 2001) (“[T]he district court should consider FERPA in making its determination whether sealing of the documents in question is appropriate.”).

7. Therefore, the University of Virginia supports the Parties’ Motion to redact those portions of Expert Report of Catherine Tucker, ECF. No. 251-1, which contain the personal information of individual University of Virginia student-athletes, as identified below and in the Proposed Order:

Document	Entry Number	Text to be Sealed
Expert Report of Catherine Tucker	ECF. No 251-1	p. 209-10, ¶ 250

8. The limited redactions proposed above are narrowly tailored, and seek to seal only individual student-athletes’ confidential information, the public disclosure of which would harm such student-athletes. Disclosing these redacted portions publicly is also unnecessary in this litigation, as these student-athletes’ specific identities are irrelevant to Plaintiffs’ arguments in support of class certification.

CONFIDENTIAL INSTITUTIONAL FINANCIAL INFORMATION

9. The Expert Report of Catherine Tucker contains information which reflects the details of financial aid provided by the University of Virginia to its student athletes as well as the specific manner in which the University of Virginia awards such aid. The University of Virginia would be harmed by the disclosure of such financial aid distributions, as it would reveal non-public information regarding the University of Virginia’s financial decisions to other NCAA members and other competitors. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).

10. The University of Virginia therefore supports the Parties’ Motion to redact those portions of the Expert Report of Catherine Tucker, ECF. No. 251-1 which contains the University of Virginia’s confidential financial information, as identified below and in the Proposed Order:

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Document	Entry Number	Text to be Sealed
The Expert Report of Catherine Tucker	ECF No. 251-1	p. 115 (Fig. 7)
The Expert Report of Catherine Tucker	ECF No. 251-1	p. 116 (Fig. 8)
The Expert Report of Catherine Tucker	ECF No. 251-1	p. 117, ¶ 130
The Expert Report of Catherine Tucker	ECF No. 251-1	p. 118 (Fig. 9)

11. For the foregoing reasons, the University of Virginia respectfully submits that compelling reasons exist to seal the information as identified above and in the Proposed Order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 28, 2023, in Charlottesville, Virginia.

/s/ Barry T. Meek

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SIGNATURE CERTIFICATION

I, Christopher S. Yates, am the CM/ECF user whose ID and password are being used to file this Declaration of Barry T. Meek in Support of the Joint Administrative Omnibus Motion to Seal. In compliance with Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained from each of the other signatories.

Dated: September 29, 2023

Respectfully submitted,

LATHAM & WATKINS LLP

By: /s/ Christopher S. Yates
Christopher S. Yates
Attorneys for Defendant
The Atlantic Coast Conference